

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

**RFC LENDERS OF TEXAS, LLC,**

**Plaintiff,**

**v.**

**THE PROGRESSIVE CORP.  
(d.b.a. PROGRESSIVE CASUALTY  
INSURANCE CO.),**

**Defendant.**

**CIVIL ACTION NO.: 4:19-cv-727**

**JURY TRIAL DEMANDED**

**COMPLAINT FOR PATENT INFRINGEMENT**

1. This is an action under the patent laws of the United States, Title 35 of the United States Code, for patent infringement in which RFC Lenders of Texas, LLC (“RFC” or “Plaintiff”), makes the following allegations against The Progressive Corp. (d.b.a. Progressive Casualty Insurance Co.) (“Progressive” or “Defendant”).

**PARTIES**

2. Plaintiff is a Texas limited liability company, having its primary office at 405 State Highway 121, Suite A250, Lewisville, TX 75067 – located in Denton County.

3. Defendant Progressive is an Ohio corporation, with a principal place of business at 300 Wilson Mills Road, Mayfield Village, Ohio 44143. Defendant does not appear to have a Registered Agent for service of process in Texas. Defendant does have regular and established places of business within the Eastern District of Texas, as detailed below.

**JURISDICTION AND VENUE**

4. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Venue is proper in this district under 28 U.S.C. §§ 1391(c), generally, and under 1400(b), specifically. Defendant has a regular and established place of business in this Judicial District, and Defendant has also committed acts of patent infringement in this Judicial District.

6. Defendant is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, due at least to its substantial business in this forum, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this Judicial District.

7. Progressive has a regular and established place of business in Lewisville, Texas. Progressive owns the land located at 2890 Lake Ridge Road, Lewisville, Texas 75056:

**Denton**  
Central Appraisal District

**Details for Property 953092**  
Values are **2019 Certified** ▼  
PRINT QUESTION ABOUT THIS PROPERTY?

Search  
Protest Information  
Exemptions  
GIS Map  
Forms and Downloads  
General Information  
Employment and Education  
Need Help?  
Contact Us

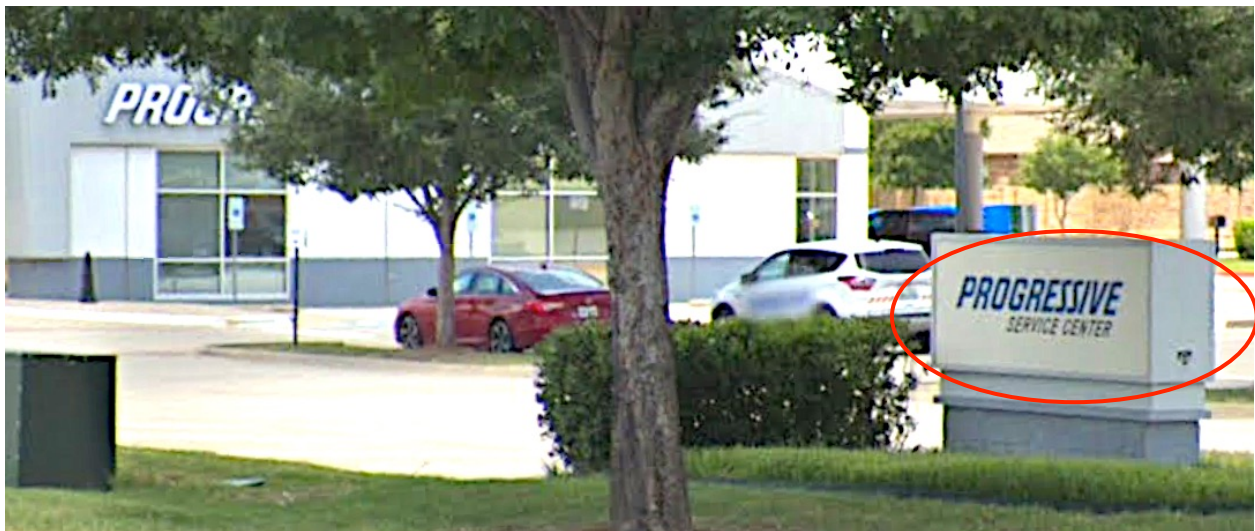
**General Information**

**2890 LAKE RIDGE RD TX 75056-3906** \$ [REDACTED]

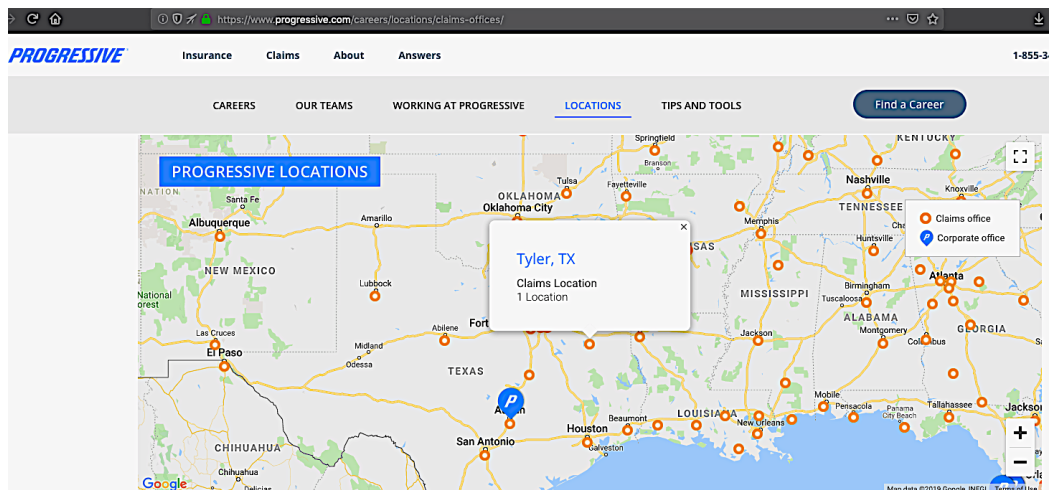
Owner	PROGRESSIVE CASUALTY INSURANCE CO - 100%
Owner ID	627301
Owner Mailing Address	THE PROGRESSIVE CORPORATION - ATTN: TAX DEPT 6300 WILSON MILLS RD MAYFIELD VILLAGE, OH 44143-2109
Doing Business As	PROGRESSIVE CASUALTY INSURANCE CO
Property Type	Personal Property
Legal Description	PERSONAL PROPERTY - INSURANCE COMPANY LOCATION: 2890 LAKE RIDGE RD, LEWISVILLE
Geographic ID	P953092
Taxing Jurisdictions	C12 (LEWISVILLE CITY OF) G01 (DENTON COUNTY) S09 (LEWISVILLE ISD)

and operates a "Progressive Service Center" upon that land:



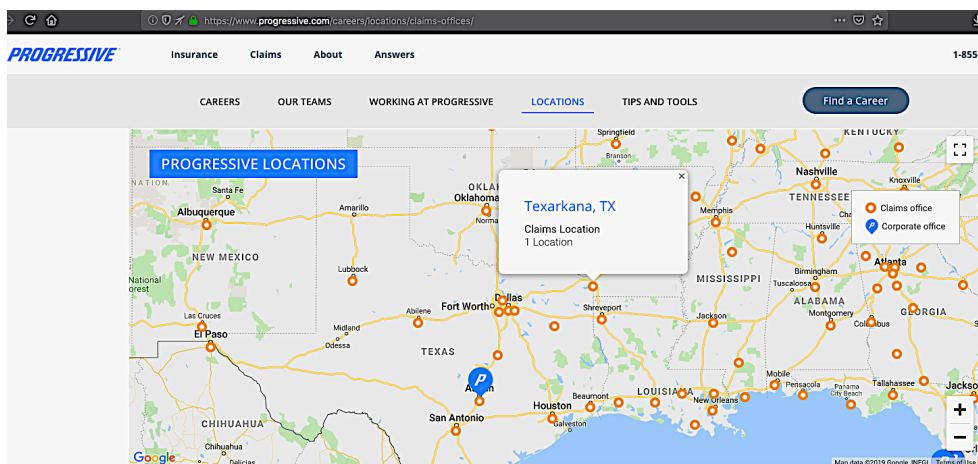


8. Defendant also has regular and established places of business throughout the Eastern District of Texas, including a “Claims Office” in Tyler, Texas:





and a “Claims Office” in Texarkana, Texas:



9. Defendant has infringed, and does infringe, by operating, transacting, and conducting Progressive’s business within the Eastern District of Texas.

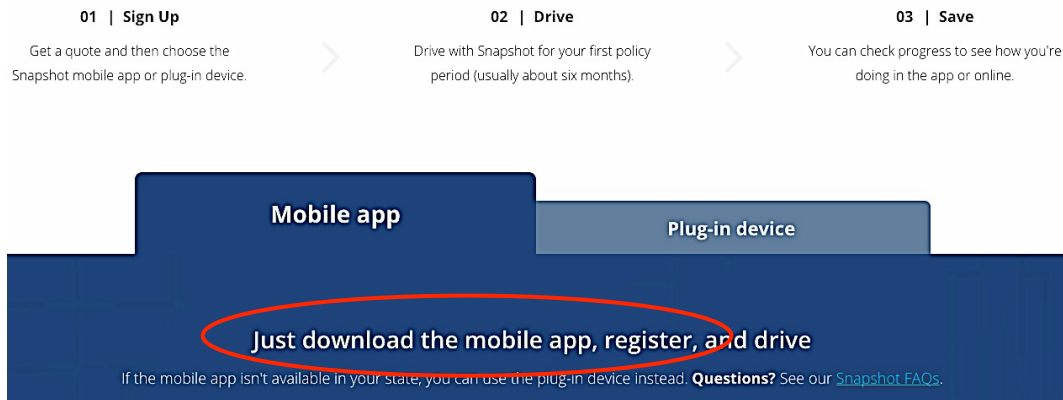
10. Defendant’s location in Lewisville, TX (Denton County) is a regular and established place of business in this Judicial District, and Defendant has committed acts of infringement at numerous locations within this District. Venue is therefore proper in this District under 28 U.S.C. § 1400(b).

### **COUNT I** **INFRINGEMENT OF U.S. PATENT NO. 7,430,471**

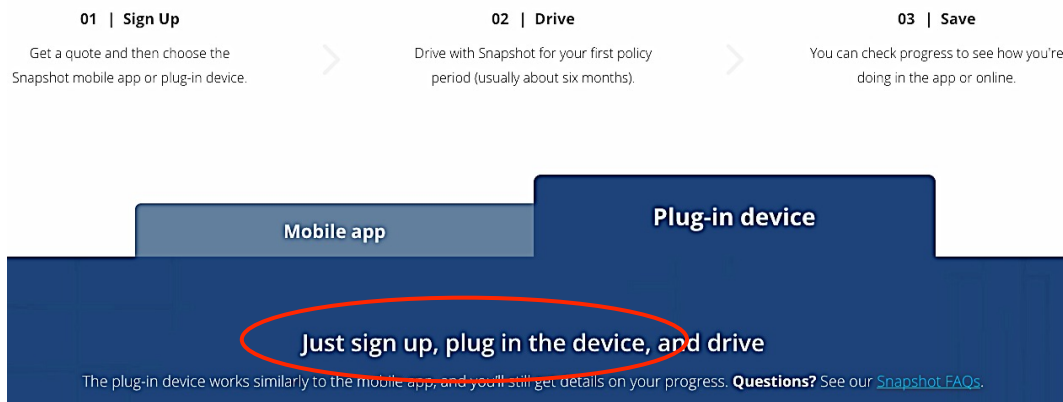
11. Plaintiff is the owner by assignment of the valid and enforceable United States Patent No. 7,430,471 (“the ‘471 Patent”) entitled “Method and System for Monitoring a Vehicle” – including all rights to recover for past, present and future acts of infringement. The ‘471 Patent issued on September 30, 2008, and has a priority date of October 25, 2004. A true and correct copy of the ‘471 Patent is attached as Exhibit A.

12. Defendant directly uses, operates, provides, supplies, distributes, offers, and provides access to Progressive’s “Snapshot” usage-based insurance program (“Snapshot System”) – requiring an end user to use either a Progressive-provided mobile device “app” or a Progressive-provided plug-in device:

### How does Snapshot work?



### How does Snapshot work?



### Enrollment

You can enroll in Snapshot at any time.

Enrollment is required by all drivers (mobile app) or all eligible vehicles (plug-in device). The monitoring method cannot be a mix of mobile app and plug-in device.

13. Before utilizing the Snapshot System, end users must enroll in, sign up, or register for, the program through Progressive:

### Enrollment

You can enroll in Snapshot at any time.

Enrollment is required by all drivers (mobile app) or all eligible vehicles (plug-in device). The monitoring method cannot be a mix of mobile app and plug-in device.

### When do I get my Snapshot plug-in device?

You will receive your device in the mail within seven to 10 days of when you signed up for Snapshot.

14. End users of the Snapshot System are required to install a Snapshot “app” on their mobile device or to install a plug-in device in their vehicle:

Your participation in Snapshot begins when you start sharing your driving data.

Subject to certain eligibility requirements, you may choose to share your driving data with us using either a device that plugs into the OBD port on most vehicles, or a mobile app.

**Plug-In Device:** You'll receive a Snapshot device in the mail about five to seven days after you sign up. Plug in the device and start driving with Snapshot as soon as you can. If you don't want to plug in the device, simply return it. If you enrolled when you bought your policy, you must plug in within 45 days or you'll lose any Participation Discount.

**Mobile App:** You'll receive instructions on how to install and register the app. Register the app as soon as you can. If you enrolled when you bought your policy, you must register the app within 45 days or you'll lose any Participation Discount.

15. The Snapshot mobile “app” and the Snapshot plug-in device (collectively, “Snapshot Devices” are both used by the Snapshot System to collect information concerning who is driving a vehicle, when the vehicle is being driven, and where the vehicle is located:

Snapshot collects information about how you drive, how much you drive, and when you drive. If you're using the Snapshot Mobile app, details about your handheld phone use behind the wheel will also be collected. While location data is collected as well, it doesn't impact the Snapshot results you earn, but may be used for underwriting purposes. We're

**Does the app have GPS?**

The Snapshot Mobile app uses GPS to calculate your speed over time, mileage, and driving behaviors such as hard braking. Location data is used to provide trip information on the phone. It may also be used for underwriting purposes, but is not used in determining your personalized rate.

**Why does the Snapshot Mobile app need Wi-Fi?**

The app uses Wi-Fi to send us your trip information. The app also uses Wi-Fi to more accurately determine when a trip begins and to complement GPS location data.

16. The Snapshot System utilizes GPS and wireless networking systems to collect and transmit data to Progressive server systems:

**Does the app have GPS?**

The Snapshot Mobile app uses GPS to calculate your speed over time, mileage, and driving behaviors such as hard braking. Location data is used to provide trip information on the phone. It may also be used for underwriting purposes, but is not used in determining your personalized rate.

**Why does the Snapshot Mobile app need Wi-Fi?**

The app uses Wi-Fi to send us your trip information. The app also uses Wi-Fi to more accurately determine when a trip begins and to complement GPS location data.

*Data collected.* Once downloaded and registered, the App will run in the background and collect driving and phone sensor data ("Snapshot Data"), which will be uploaded to Progressive and available for review through the App. Snapshot Data includes vehicle speed and location using GPS, time information, phone usage, and data from the phone's sensors. Other information, such as trip

**Data Collected.** The Snapshot device records "Snapshot Data," which includes vehicle speed and time information, Vehicle Identification Number, G force (in some devices), as well as when the device is plugged into and unplugged from the vehicle. Other information, such as miles driven and rates of acceleration and braking, is derived from the speed and time information. Some Snapshot devices contain GPS technology and record location information for underwriting purposes, as well as for research and development. Devices transmit Snapshot Data wirelessly to and from Progressive. Where you drive is not used in determining your personalized rate.

17. The Snapshot System detects when a vehicle is moved or activated:

**Do I have to turn on the app every time I get in my car?**

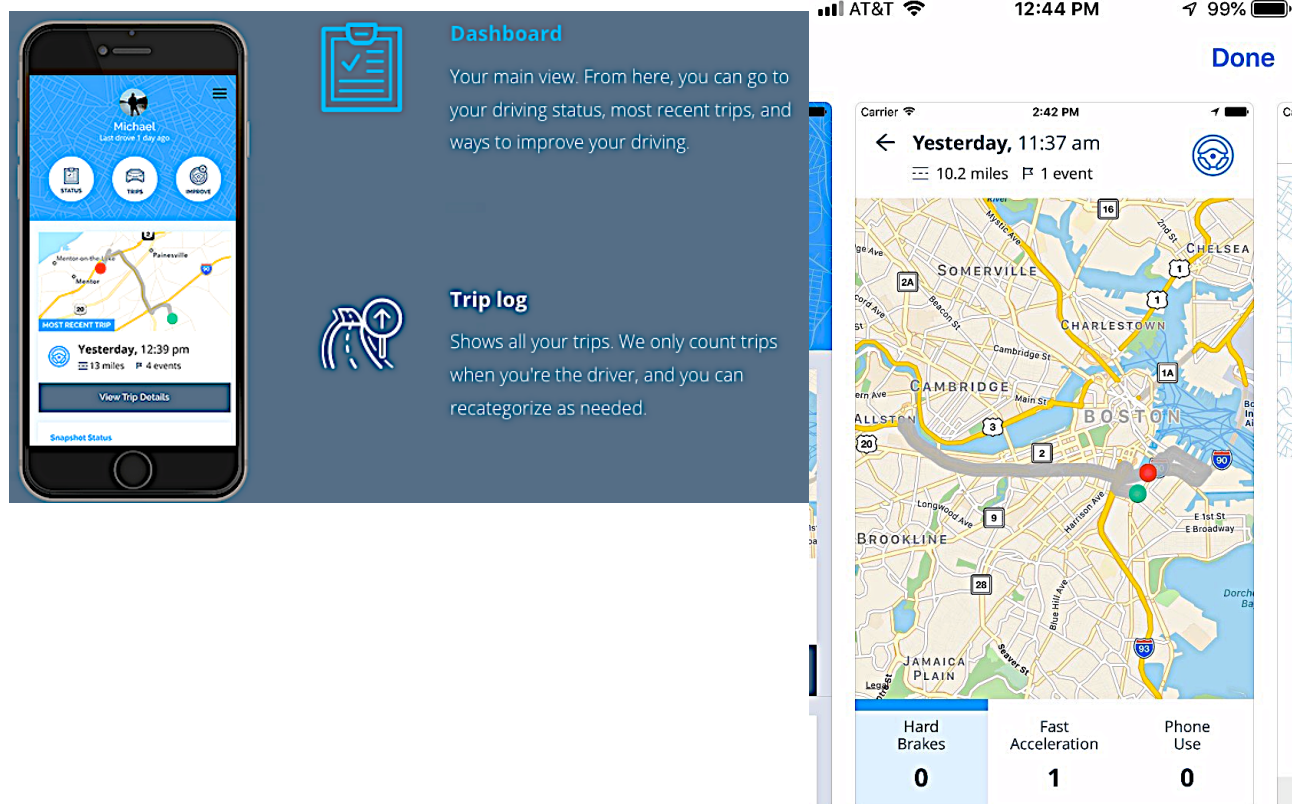
As long as the app is installed on your phone, and the phone is on, you do not need to do anything when you get in the car. The app will be able to detect the start of your trip and begin collecting information on its own.

**How does the app know if I am driving?**

The Snapshot Mobile app detects movement of a certain speed and distance to determine when a trip starts. No action is necessary on the part of the user.



18. The Snapshot System collects and transmits data concerning speed, braking, vehicle location, departure and arrival:



*Data collected.* Once downloaded and registered, the App will run in the background and collect driving and phone sensor data ("Snapshot Data"), which will be uploaded to Progressive and available for review through the App. Snapshot Data includes vehicle speed and location using GPS, time information, phone usage, and data from the phone's sensors. Other information, such as trip

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19. The Snapshot System manages vehicles and/or drivers via communications with a data center or central database:

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20. Plaintiff herein restates and incorporates by reference paragraphs 12 – 19, above.

21. All recited elements of – at least – claims 1, 12, 15, and 26 of the ‘471 Patent are present within Progressive’s Snapshot System.

22. Progressive’s Snapshot System monitors a vehicle.

23. Progressive’s Snapshot System detects movement or activation of a vehicle, and transmits signals indicating movement or activation of a vehicle to a control center.

24. Progressive’s Snapshot System transmits received operator identification information to a control center.

25. Progressive’s Snapshot System determines operator identification information relative to a time interval of detected movement or activation of a vehicle.

26. Progressive’s Snapshot System detects a vehicle’s proximity to a landmark, transmitting vehicle and landmark data to a control center.

27. Progressive’s Snapshot System utilizes GPS transceivers co-located with the vehicle to transmit location coordinates of the vehicle.

28. Progressive’s Snapshot System infringes – at least – claims 1, 12, 15, and 26 of the ‘471 Patent.

29. Progressive’s Snapshot System literally and directly infringes – at least – claims 1, 12, 15, and 26 of the ‘471 Patent.

30. Progressive’s Snapshot System performs or comprises all required elements of – at least – claims 1, 12, 15, and 26 of the ‘471 Patent.

31. In the alternative, Progressive’s Snapshot System infringes – at least – claims 1, 12, 15, and 26 of the ‘471 Patent under the doctrine of equivalents. Progressive’s Snapshot System performs substantially the same functions in substantially the same manner with substantially the same structures, obtaining substantially the same results, as the required elements of – at least – claims 1, 12, 15, and 26 of the ‘471 Patent. Any differences between Progressive’s Snapshot System and the claims of the ‘471 Patent are insubstantial.

32. Progressive’s Snapshot System requires end users to operate in a manner prescribed and controlled by Progressive. End users must sign up or register, and utilize a

Progressive app or device, in order to utilize the Snapshot System – utilizing Progressive servers in the process, and operating according to predetermined operations residing in Progressive servers. Defendant therefore exercises control and/or direction over the performance of every action performed on or by a Snapshot System, including those that are initiated by an end user.

33. All recited elements of – at least – claims 1, 12, 15, and 26 of the ‘471 Patent are present within, or performed by, Progressive’s Snapshot System or, in the alternative, performed by end users of Progressive’s Snapshot System under the direction and control of Defendant – and are therefore attributable to Defendant.

34. In the alternative, therefore, Progressive’s Snapshot System infringes – indirectly – claims 1, 12, 15, and 26 of the ‘471 Patent, by virtue of Defendant’s exclusive control and direction of the infringing instrumentalities and/or operations.

35. Progressive’s Snapshot Systems, when used and/or operated in its intended manner or as designed, infringes – at least – claims 1, 12, 15, and 26 of the ‘471 Patent, and Defendant is therefore liable for infringement of the ‘471 Patent.

#### **DEMAND FOR JURY TRIAL**

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests that this Court enter:

- a. A judgment in favor of Plaintiff that Defendant has infringed the ‘471 Patent;
- b. A permanent injunction enjoining Defendant and its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert therewith, from infringement of the ‘471 Patent;
- c. A judgment and order requiring Defendant to pay Plaintiff its damages, costs, expenses, and pre-judgment and post-judgment interest for Defendant’s infringement of the ‘471 Patent as provided under 35 U.S.C. § 284;
- d. An award to Plaintiff for enhanced damages resulting from the knowing and deliberate nature of Defendant’s prohibited conduct with notice being made at least as early as the service date of this complaint, as provided under 35 U.S.C. § 284;

- e. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to Plaintiff its reasonable attorneys' fees; and
- f. Any and all other relief to which Plaintiff may show itself to be entitled.

October 4, 2019

Respectfully Submitted,

By: /s/ Ronald W. Burns

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**ATTORNEY FOR PLAINTIFF  
RFC LENDERS OF TEXAS, LLC**